

Initial Statement of Reasons

Adoption of Proposed Amendments to California Code of Regulations, Title 18, Sections 101, *Board-Prescribed Exemption Forms, 171, Board-Prescribed Forms for Property Statements, 252, Content of Assessment Roll, and 1045, Administration of the Annual Racehorse Tax*

SPECIFIC PURPOSE, PROBLEM TO BE ADRESSED, NECESSITY, AND BENEFITS

Existing Laws and Regulations

Government Code section 15606, subdivision (c), authorizes the State Board of Equalization (Board) to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing, and county assessors when assessing. Government Code section 15606, subdivision (d), generally authorizes the Board to prescribe and enforce the use of forms for the assessment of property for taxation. In addition, Revenue and Taxation Code (RTC) section 5781 authorizes the Board to adopt rules and regulations and prescribe forms to implement part 12 (commencing with § 5701) of division 1 of the RTC, which imposes an annual tax on the owners of racehorses for the privilege of breeding, training, caring for, or racing their racehorses in this state, in lieu of any other property tax that would otherwise be imposed on racehorses under division 1 (hereafter “annual racehorse tax”).

California Code of Regulations, title 18, section (Rule) 101 currently requires the use of Board-prescribed forms for claiming property tax exemptions. Rule 171 currently requires the use of Board-prescribed property statement and report forms for reporting interests in personal and real property for assessment purposes. Rule 252 currently prescribes the general content of local assessment rolls county assessors prepare to assess property taxes. Rule 1045 currently requires the use of Board-prescribed Annual Racehorse Tax Returns and Annual Report of Boarded Racehorses forms for reporting the annual racehorse tax. In addition, Rules 101, 171, and 1045 currently grant county assessors the discretion to reproduce Board-prescribed prototype forms or to produce their own forms from the Board-prescribed prototype forms after rearranging the content and altering the size and design of the prototype forms to meet the county assessors’ needs. However, if a county assessor chooses to rearrange the content or alter the size and design of a Board-prescribed prototype form, then Rules 101, 171, and 1045 currently require the county assessor submit the revised form to the Board for approval that it conforms to the applicable rule’s requirements, along with a form checklist. The Board adopted Rules 101, 171, 252, and 1045, pursuant to Government Code section 15606. The Board also adopted Rule 1045 pursuant to Revenue and Taxation Code section 5781.

The date that property taxes for any fiscal year become a lien on property is referred to as the “lien date.” (RTC § 117.) The lien date was moved from March 1 to January 1 due to amendments made to RTC section 2192 by Statutes 1995, chapter 499. RTC section 5761 provides that the annual racehorse tax shall be determined as of “January 1 of the calendar year for which it is imposed and shall be immediately due and payable to the tax collector of the county in which the racehorse is domiciled.” RTC section 5761 has not been amended since 1972.

Government Code section 6254.21, subdivision (a), was enacted in 1998 (Stats. 1998, ch. 429) to prohibit state and local agencies from posting the home addresses and telephone numbers of appointed or elected officials on the Internet without obtaining the officials’ written permission. In addition, the legislature amended Government Code section 6254.21, subdivision (b), in 2002 (Stats. 2002, ch. 621) to also prohibit any person from knowingly posting the home addresses and telephone numbers of appointed or elected officials’ residing spouses and children on the Internet under specified circumstances.

In 2003, RTC section 75.30 was repealed by the enactment of Senate Bill No. (SB) 1062 (Stats. 2003, ch. 471). Section 75.30 previously required county assessors to place a “notice of a pending supplemental billing” on the assessment roll, and Rule 252, subdivision (a)(16), currently contains provisions implementing that requirement.

In 2009, the enactment of SB 822 (Stats. 2009, ch. 204) amended RTC section 441.5 in order to permit county assessors to accept property statement information provided by alternative means, including electronic filing. However, Rule 171 does not currently reflect the 2009 amendments to RTC section 441.5.

In addition, current law authorizes county assessors to request relevant tax information that is not required to be provided in Board-prescribed forms (see, e.g., RTC §§ 217, subd. (g), 441, subd. (d), and 5768) and, in some cases, expressly permits county assessors to develop and use their own forms with the Board’s approval. (See, e.g., RTC §§ 75.31, subd. (g), and 534, subd. (d).)

Proposed Amendments

Board staff initiated a project to update Rules 101, 171, 252, and 1045. The specific purpose of the project was to address the following problems:

- The title of Rule 171 does not reflect that Rule 171 applies to report forms;
- Rule 171 does not reflect the amendments made to RTC section 441.5 by SB 822, which permit county assessors to accept property statement information provided by alternative means, including electronic filing;
- The provisions in Rules 101, 171, and 1045 requiring the use of Board-prescribed property tax forms and prescribing the procedures county assessors are required to follow to ensure that their forms meet the applicable rule’s requirements could be more specific and clear;

- The due dates for the form checklists required by Rules 101 and 171 are based on the prior March 1 lien date, not the current January 1 lien date, and the due dates for the form checklists required by Rules 101, 171, and 1045 are not early enough in the year;
- Rules 101, 171, and 1045 do not contain provisions explaining when current law permits county assessors to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and the rules do not encourage county assessors to develop uniform forms for use throughout the state, request that the Board revise its forms or create new forms when needed, or make their current property tax forms available on their websites;
- Rule 252 does not reflect the repeal of RTC section 75.30, which required county assessors to place a “notice of a pending supplemental billing” on the assessment roll, by SB 1062
- Rule 252 does not specifically prescribe the manner in which county assessors are required to denote escape assessments, and could more precisely cross reference Rule 261;
- Rule 252, subdivision (b) could more clearly explain the procedures for entering the assessed value of exempt property on the assessment roll;
- Rule 252 does not contain provisions notifying county assessors who post their local assessment rolls on the Internet about Government Code section 6254.21’s prohibitions against posting the home addresses and telephone numbers of appointed or elected officials and their residing spouses and children on the Internet;
- Rule 101’s reference note does not refer to all the RTC sections that are implemented by Board-prescribed exemption forms;
- Rule 171’s reference note does not refer to all the RTC sections that are implemented by Board-prescribed report forms or property statements; and
- Rule 171’s reference note refers to RTC section 469, which is not implemented by a Board-prescribed report form or property statement.

As a result, Board staff issued Letter to Assessors No. (LTA) 2012/015 on April 9, 2012, which informed county assessors and interested parties about the project to amend Rules 101, 171, 252, and 1045. The LTA also included drafts of staff’s proposed revisions to the rules to address the above problems and encouraged the county assessors and interested parties to review and comment on the drafts.

The counties generally approved of the draft language. However, a few counties noted that the word “furnished” was inadvertently replaced with the word “furnish” in the original text of Rule 171, subdivision (f), and that the draft language did not fully illustrate the renumbering of Rule 1045, subdivision (e), as subdivision (h). Also, one county suggested changing the word “question” to the word “questions” in subdivision (a) of Rules 101, 171, and 1045, changing the word “carriers” to the word “carries” in Rule 171, subdivision (d)(1), and reformatting Rules 101, subdivision (d)(2), 171, subdivision (g)(2), and 1045, subdivision (d)(2). As a result, staff made a few grammatical and formatting changes to each subdivision.

Subsequently, Board staff prepared Formal Issue Paper 12-008 and submitted it to the Board for consideration at its August 21, 2012, Property Tax Committee meeting. The issue paper recommended that the Board propose the adoption of staff's draft revisions to Rules 101, 171, 252, and 1045, with the grammatical and formatting changes noted above.

During its August 21, 2012, Property Tax Committee meeting, the Board determined that staff's recommended amendments to Rules 101, 171, 252, and 1045 are reasonably necessary to address the problems described above and carry out the specific purposes of: (1) ensuring that the title of Rule 171 reflects the rule's content and that the text of Rule 171 reflects the amendments made to RTC section 441.5 by SB 822, which permit county assessors to accept property statement information provided by alternative means, including electronic filing; (2) ensuring that Rule 252 reflects the repeal of RTC section 75.30, which required county assessors to place a "notice of a pending supplemental billing" on the assessment roll, clarifying the notation required by Rule 252 to denote escape assessments on the assessment roll, clarifying Rule 252's cross reference to Rule 261, clarifying Rule 252's provisions regarding the entry of the assessed value of exempt property on the assessment roll, and ensuring that county assessors who post their local assessment rolls on the Internet do not violate the prohibitions set forth in Government Code section 6254.21; (3) clarifying the provisions in Rules 101, 171, and 1045 requiring the use of Board-prescribed property tax forms; (4) clarifying the procedures in Rules 101, 171, and 1045 that county assessors are required to follow to ensure that their forms meet the applicable rule's requirements; (5) updating the due dates for form checklists specified in Rules 101, 171, and 1045 to reflect the amendments made to RTC section 2192 by Statutes 1995, chapter 499, which moved the lien date from March 1 to January 1, and generally ensure that assessors provide their form checklists to the Board earlier in the year; (6) explaining when current law permits county assessors to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and encouraging county assessors to develop uniform forms for use throughout the state, request that the Board revise its forms or create new forms when needed, and make their current property tax forms available on their websites; and (7) updating the reference notes to Rules 101, 171, and 252. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The proposed amendments are anticipated to provide the following specific benefits:

- Ensure that Rule 171 is consistent with the amendments made to RTC section 441.5 by SB 822;
- Ensure that Rule 252 is consistent with the repeal of the requirements previously imposed by RTC section 75.30, and clearly explains how to denote an escape assessment on the assessment roll and how to enter the assessed value of exempt property on the assessment roll;
- Provide county assessors with additional notice regarding the prohibitions in Government Code section 6254.21;
- Clarify the provisions in Rules 101, 171, and 1045 requiring county assessors to use Board-prescribed forms, and prescribing the procedures that county assessors

must follow to ensure that they are complying with the applicable rule's requirements;

- Ensure that Rules 101 and 171 reflect the amendments made to RTC section 2192 by Statutes 1995, chapter 499, which moved the lien date to January 1;
- Provide guidance to county assessors regarding their authority, under current law, to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and help encourage county assessors to develop uniform forms for use throughout the state;
- Help encourage county assessors to request that the Board revise its forms or create new forms when needed;
- Help encourage county assessors to make their current property tax forms available on Internet; and
- Promote fairness by helping to ensure the uniformity of property tax forms used throughout the state.

The proposed amendments to Rules 101, 171, 252, and 1045 were not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Rule 101, 171, 252, or 1045.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 12-008, the attachments to the formal issue paper, and the comments made during the Board's discussion of the formal issue paper during its August 21, 2012, Property Tax Committee meeting in deciding to propose the amendments to Rules 101, 171, 252, and 1045 described above.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the proposed amendments to Rules 101, 171, 252, and 1045 at this time or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendments at this time because the Board determined that the amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the proposed amendments to Rules 101, 171, 252, and 1045 that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purposes of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2,
SUBDIVISION (b)(6) AND ECONOMIC IMPACT ANALYSIS REQUIRED BY
GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The proposed amendments make Rule 171 consistent with the amendments made to RTC section 441.5 by SB 822 and make Rule 252 consistent with the repeal of the requirements previously imposed by RTC section 75.30. The proposed amendments to Rule 252 also clearly explain how to denote an escape assessment on the assessment roll, clarify the procedures for entering the assessed value of exempt property on the assessment roll, and provide county assessors with additional notice regarding the prohibitions in Government Code section 6254.21. The proposed amendments clarify the provisions of Rules 101, 171, and 1045 requiring county assessors to use Board-prescribed forms, and prescribing the procedures that county assessors must follow to ensure that they are complying with the applicable rule's requirements. The proposed amendments to Rules 101, 171, and 1045 update the due dates for form checklists specified in Rules 101, 171, and 1045 to reflect the January 1 lien date, and generally ensure that assessors provide their form checklists to the Board earlier in the year. The proposed amendments to Rules 101, 171, and 1045 provide guidance to county assessors regarding their authority, under current law, to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and help encourage county assessors to develop uniform forms for use throughout the state. The proposed amendments to Rules 101, 171, and 1045 also encourage county assessors to request that the Board revise its forms or create new forms when needed, and help encourage county assessors to make their current property tax forms available on Internet. As a result, the proposed amendments mainly clarify existing law and procedures regarding the use of forms by county assessors, and do not affect jobs or business in the state. Therefore, the Board has determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

Furthermore, Rules 101, 171, 252, and 1045 do not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not affect the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not have a significant adverse economic impact on business.

The proposed amendments may affect small business.